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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,383

Applicant(s)

CAN ET AL.

Examiner

Christopher R Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 1, Issacman discloses a system (abstract, Fig. 2) for determining inventory that includes a fixture adapted to hold a first collection of merchandise (see Fig. 2, col. 5 line 31+, col. 6 line 50+), the merchandise having at least one item with an associated RFID tag (10, Tag a, Fig. 2), and a reader (8, col. 2 line 10) disposed on the fixture proximate the merchandise that can interrogate the RFID tag and receive information related to the tag (col. 3 line 47+, col. 5 line 1+). With regard to claim 2, the first collection includes a second item with an associated RFID tag (Tag b). With regard to claim 3, the fixture can hold a second collection of merchandise (see Fig. 2) and a reader (8, col. 2 line 10) disposed on the fixture proximate the merchandise that can interrogate the RFID tag and receive information related to the tag. With regard to claims 4 and 5, each reader is adapted to read only its associated collection of merchandise (col. 3 line 46+, see Fig. 2). With regard to claims 6 and 7,

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the system can sense items quickly (near real time) and can determine the location of the item, and, thus whether it is properly located in the fixture (abstract).

3. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 8, Issacman discloses a method for determining inventory that includes associating a first RFID tag (10, Tag a, Fig. 2) with a first item of merchandise (abstract), placing the first item proximate a first location on a fixture (see Fig. 2, col. 5 line 31+, col. 6 line 50+), placing a reader (8, col. 2 line 10) on the fixture proximate the first location, and interrogating the RFID tag with the reader (col. 3 line 47+, col. 5 line 1+). With regard to claim 9, a second item with an associated RFID tag (Tag b) can be placed proximate the first location (see Fig. 2). With regard to claim 10, a third item with an associated RFID tag (Tag m) can be placed proximate a second location (see Fig. 2). With regard to claims 11 and 12, each reader is adapted to read only the merchandise in its associated location (col. 3 line 46+, see Fig. 2).

4. Claims 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 13, Issacman discloses a method for obtaining inventory information that includes associating a first RFID tag (10, Tag a, Fig. 2) with a first item of merchandise (abstract), placing the first item proximate a first location on a fixture (see Fig. 2, col. 5 line 31+, col. 6 line 50+), placing a reader (8, col. 2 line 10) on the

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fixture proximate the first location, and interrogating the RFID tag with a wireless handheld device (24, Fig. 4, col. 3 line 47+, col. 5 line 1+, col. 8 line 57+). With regard to claims 14 and 15, the handheld device (24) receives information related to the RFID tag and determines if a particular tag matches the information (col. 8 line 57+). With regard to claims 16 and 17, it is common practice in the art for interrogation devices to respond with an audible signal (a beep, for example) upon receipt/verification of scanned information. With regard to claim 18, the handheld device can interrogate a plurality of tags and can gather information to determine current inventory.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

Issacman discloses a system (abstract, Fig. 2) for using RFID to manage inventory items that includes an RFID tag (10, Tag a, Fig. 2) associated with each item to be tracked (abstract), a plurality of tag readers (8, col. 2 line 10) disposed at various locations (col. 3 line 47+, col. 5 line 1+), and a host computer (2, col. 7 line 44+) for receiving and processing information. It would be obvious to one skilled in the art that this system could be applied to a supply chain of a retail operation and that the host computer could interface with a variety of other systems.

6. Claims 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 21, Issacman discloses a method (abstract, Fig. 2) for using RFID to manage inventory items that includes associating an RFID tag (10, Tag a, Fig. 2) with each item to be tracked (abstract), placing a plurality of tag readers (8, col. 2 line 10) at various locations (col. 3 line 47+, col. 5 line 1+), and providing a host computer (2, col. 7 line 44+) for receiving and processing information. It would be obvious to one skilled in the art that this system could be applied to a retail operation and that the host computer could interface with a variety of other systems. With regard to claims 22-28, it would be obvious to one skilled in the art that the RFID tag could be attached to a variety of items (garments, books, etc.), could contain a variety of information (manufacturer information, product ID, etc.), and could be interrogated at any point in a supply chain (warehouse, delivery, fitting room, checkout, return, etc.) so that analysis could be performed to provide statistics on a variety of quantities, including sales, returned items, losses during delivery, correlations between fitting room and sales, and so forth. With regard to claim 29, the RFID tag is a read/write tag (col. 2 line 9+). With regard to claims 30 and 31, handheld readers (24) and fixed readers (8) located proximate the items are provided to interrogate the tags (col. 3 line 47+, col. 5 line 1+, col. 8 line 57+). It would be obvious to one skilled in the art that the system could be operated continuously. With regard to claim 32, it would be obvious to one skilled in the art that various data could be compared and that under certain conditions (available stock items not on display, for example) an alert could be provided.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frieden discloses a RFID tag that can be attached to a variety of items for tracking. Radican discloses a method for inventory monitoring that tracks supplier shipments and returns. Ghaffari et al. disclose an article tracking system that utilizes RFID tags and that is interfaced with an inventory database. Defosse discloses a system that monitors inventory items in a vending machine from a remote location using a computer network. Horwitz et al. disclose a method for tracking inventory items in a warehouse using RFID tags.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Buchanan whose telephone number is 703-306-5782. The examiner can normally be reached on M-Th 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CRB

Christopher Buchanan
January 8, 2003


Kenneth R. Rice
Primary Examiner